

HOUSE BILL NO. 2191

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Rehabilitation and Social Services

on February 16, 2021)

(Patron Prior to Substitute--Delegate Leftwich)

A BILL to amend and reenact §§ 63.2-1505 and 63.2-1506 of the Code of Virginia, relating to local departments of social services; investigations and family assessments; disclosure of child's location.

Be it enacted by the General Assembly of Virginia:**1. That §§ 63.2-1505 and 63.2-1506 of the Code of Virginia are amended and reenacted as follows:****§ 63.2-1505. Investigations by local departments.**

A. An investigation requires the collection of information necessary to determine:

1. The immediate safety needs of the child;

2. The protective and rehabilitative services needs of the child and family that will deter abuse or neglect;

3. Risk of future harm to the child;

4. Alternative plans for the child's safety if protective and rehabilitative services are indicated and the family is unable or unwilling to participate in services;

5. Whether abuse or neglect has occurred;

6. If abuse or neglect has occurred, who abused or neglected the child; and

7. A finding of either founded or unfounded based on the facts collected during the investigation.

B. If the local department responds to the report or complaint by conducting an investigation, the local department shall:

1. Make immediate investigation and, if the report or complaint was based upon one of the factors specified in subsection B of § 63.2-1509, the local department may file a petition pursuant to § 16.1-241.3;

26 2. Complete a report and enter it into the statewide automation system maintained by the
27 Department;

28 3. Consult with the family to arrange for necessary protective and rehabilitative services to be
29 provided to the child and his family;

30 4. Petition the court for services deemed necessary including, but not limited to, removal of the
31 child or his siblings from their home;

32 5. Determine within 45 days if a report of abuse or neglect is founded or unfounded and transmit
33 a report to such effect to the Department and to the person who is the subject of the investigation. However,
34 upon written justification by the local department, the time for such determination may be extended not
35 to exceed a total of 60 days or, in the event that the investigation is being conducted in cooperation with
36 a law-enforcement agency and both parties agree that circumstances so warrant, as stated in the written
37 justification, the time for such determination may be extended not to exceed 90 days. If through the
38 exercise of reasonable diligence the local department is unable to find the child who is the subject of the
39 report, the time the child cannot be found shall not be computed as part of the total time period allowed
40 for the investigation and determination and documentation of such reasonable diligence shall be placed in
41 the record. In cases involving the death of a child or alleged sexual abuse of a child who is the subject of
42 the report, the time during which records necessary for the investigation of the complaint but not created
43 by the local department, including autopsy or medical or forensic records or reports, are not available to
44 the local department due to circumstances beyond the local department's control shall not be computed as
45 part of the total time period allowed for the investigation and determination, and documentation of the
46 circumstances that resulted in the delay shall be placed in the record. In cases in which the subject of the
47 investigation is a full-time, part-time, permanent, or temporary employee of a school division who is
48 suspected of abusing or neglecting a child in the course of his educational employment, the time period
49 for determining whether a report is founded or unfounded and transmitting a report to that effect to the
50 Department and the person who is the subject of the investigation shall be mandatory, and every local
51 department shall make the required determination and report within the specified time period without
52 delay;

6. If a report of abuse or neglect is unfounded, transmit a report to such effect to the complainant and parent or guardian and the person responsible for the care of the child in those cases where such person was suspected of abuse or neglect; ~~and~~

7. If a report of child abuse and neglect is founded, and the subject of the report is or was at the time of the investigation or the conduct that led to the report a full-time, part-time, permanent, or temporary employee of a school division located within the Commonwealth, notify the relevant school board of the founded complaint without delay; and

8. Upon request, disclose to the child's parent or guardian the location of the child, provided that (i) the investigation has not been completed and a report has not been transmitted pursuant to subdivision 5; (ii) the parent or guardian requesting disclosure of the child's location has not been the subject of a founded report of child abuse or neglect; (iii) the parent or guardian requesting disclosure of the child's location has legal custody of the child and provides to the local department any records or other information necessary to verify such custody; (iv) the local department is not aware of any court order, and has confirmed with the child's other parent or guardian or other person responsible for the care of the child that no court order has been issued, that prohibits or limits contact by the parent or guardian requesting disclosure of the child's location with the child, the child's other parent or guardian or other person responsible for the care of the child, or any member of the household in which the child is located; and (v) disclosure of the child's location to the parent or guardian will not compromise the safety of the child, the child's other parent or guardian, or any other person responsible for the care of the child.

Any information exchanged for the purposes of this subsection shall not be considered a violation of § 63.2-102, 63.2-104, or 63.2-105.

C. Each local board may obtain and consider, in accordance with regulations adopted by the Board, statewide criminal history record information from the Central Criminal Records Exchange and shall obtain and consider results of a search of the child abuse and neglect central registry of any individual who is the subject of a child abuse or neglect investigation conducted under this section when there is evidence of child abuse or neglect and the local board is evaluating the safety of the home and whether removal will protect a child from harm. The local board shall determine whether the individual has resided

in another state within at least the preceding five years and, if he has resided in another state, the local board shall request a search of the child abuse and neglect registry or equivalent registry maintained by such state. The local board also may obtain such a criminal records or registry search on all adult household members residing in the home where the individual who is the subject of the investigation resides and the child resides or visits. If a child abuse or neglect petition is filed in connection with such removal, a court may admit such information as evidence. Where the individual who is the subject of such information contests its accuracy through testimony under oath in hearing before the court, no court shall receive or consider the contested criminal history record information without certified copies of conviction. Further dissemination of the information provided to the local board is prohibited, except as authorized by law.

D. A person who has not previously participated in the investigation of complaints of child abuse or neglect in accordance with this chapter shall not participate in the investigation of any case involving a complaint of alleged sexual abuse of a child unless he (i) has completed a Board-approved training program for the investigation of complaints involving alleged sexual abuse of a child or (ii) is under the direct supervision of a person who has completed a Board-approved training program for the investigation of complaints involving alleged sexual abuse of a child. No individual may make a determination of whether a case involving a complaint of alleged sexual abuse of a child is founded or unfounded unless he has completed a Board-approved training program for the investigation of complaints involving alleged sexual abuse of a child.

E. Any individual who is the subject of a child abuse or neglect investigation conducted under this section shall notify the local department prior to changing his place of residence and provide the local department with the address of his new residence.

§ 63.2-1506. Family assessments by local departments.

A. A family assessment requires the collection of information necessary to determine:

1. The immediate safety needs of the child;
2. The protective and rehabilitative services needs of the child and family that will deter abuse or neglect;

3. Risk of future harm to the child;

4. Whether the mother of a child who was exposed in utero to a controlled substance sought substance abuse counseling or treatment prior to the child's birth; and

5. Alternative plans for the child's safety if protective and rehabilitative services are indicated and the family is unable or unwilling to participate in services.

B. When a local department has been designated as a child-protective services differential response system participant by the Department pursuant to § 63.2-1504 and responds to the report or complaint by conducting a family assessment, the local department shall:

1. Conduct an immediate family assessment and, if the report or complaint was based upon one of the factors specified in subsection B of § 63.2-1509, the local department may file a petition pursuant to § 16.1-241.3;

2. Obtain and consider the results of a search of the child abuse and neglect registry for any individual who is the subject of a family assessment. The local board shall determine whether the individual has resided in another state within at least the preceding five years, and, if he has resided in another state, the local board shall request a search of the child abuse and neglect registry or equivalent registry maintained by such state. The local board also may obtain and consider, in accordance with regulations of the Board, statewide criminal history record information from the Central Criminal Records Exchange for any individual who is the subject of a family assessment;

3. Immediately contact the subject of the report and the family of the child alleged to have been abused or neglected and give each a written and an oral explanation of the family assessment procedure. The family assessment shall be in writing and shall be completed in accordance with Board regulation;

4. Complete the family assessment within 60 days and transmit a report to such effect to the Department and to the person who is the subject of the family assessment;

5. Consult with the family to arrange for necessary protective and rehabilitative services to be provided to the child and his family. Families have the option of declining the services offered as a result of the family assessment. If the family declines the services, the case shall be closed unless the local department determines that sufficient cause exists to redetermine the case as one that needs to be

investigated. In no instance shall a case be redetermined as an investigation solely because the family declines services;

6. Petition the court for services deemed necessary;

7. Make no disposition of founded or unfounded for reports in which a family assessment is completed. Reports in which a family assessment is completed shall not be entered into the central registry contained in § 63.2-1515; ~~and~~

8. Commence an immediate investigation, if at any time during the completion of the family assessment, the local department determines that an investigation is required; and

9. Upon request, disclose to the child's parent or guardian the location of the child, provided that (i) the family assessment has not been completed and a report has not been transmitted pursuant to subdivision 4; (ii) the parent or guardian requesting disclosure of the child's location has not been the subject of a founded report of child abuse or neglect; (iii) the parent or guardian requesting disclosure of the child's location has legal custody of the child and provides to the local department any records or other information necessary to verify such custody; (iv) the local department is not aware of any court order, and has confirmed with the child's other parent or guardian or other person responsible for the care of the child that no court order has been issued, that prohibits or limits contact by the parent or guardian requesting disclosure of the child's location with the child, the child's other parent or guardian or other person responsible for the care of the child, or any member of the household in which the child is located; and (v) disclosure of the child's location to the parent or guardian will not compromise the safety of the child, the child's other parent or guardian, or any other person responsible for the care of the child.

C. When a local department has been designated as a child-protective services differential response agency by the Department, the local department may investigate any report of child abuse or neglect, but the following valid reports of child abuse or neglect shall be investigated: (i) sexual abuse, (ii) child fatality, (iii) abuse or neglect resulting in serious injury as defined in § 18.2-371.1, (iv) cases involving a child's being left alone in the same dwelling with a person to whom the child is not related by blood or marriage and who has been convicted of an offense against a minor for which registration is required as a Tier III offender pursuant to § 9.1-902, (v) child has been taken into the custody of the local department,

or (vi) cases involving a caretaker at a state-licensed child day center, religiously exempt child day center, licensed, registered or approved family day home, private or public school, hospital or any institution. If a report or complaint is based upon one of the factors specified in subsection B of § 63.2-1509, the local department shall (a) conduct a family assessment, unless an investigation is required pursuant to this subsection or other provision of law or is necessary to protect the safety of the child, and (b) develop a plan of safe care in accordance with federal law, regardless of whether the local department makes a finding of abuse or neglect.

D. Any individual who is the subject of a family assessment conducted under this section shall notify the local department prior to changing his place of residence and provide the local department with the address of his new residence.

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